

**State of New Jersey**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark NJ 07102**

WATER AND WASTEWATER

IN THE MATTER OF NEW JERSEY	)	ORDER ADOPTING STIPULATION
AMERICAN WATER COMPANY, INC.	)	AS TO CHARITABLE CONTRIBUTION
FOR AN INCREASE IN RATES FOR	)	COMPONENT IN RATES
WATER AND SEWER SERVICE AND	)	
OTHER TARIFF MODIFICATIONS	)	

BPU DOCKET NO.: WR98010015

OAL DOCKET NO.: 00699-98S

(SERVICE LIST ATTACHED)

BY THE BOARD:

On July 25, 2001, the Supreme Court of New Jersey reversed the Board's April 6, 1999 Rate Order (Order) in the above captioned matter, with respect to the inclusion in rates of \$49,592 in charitable donations made by the New Jersey American Water company (NJAWC). This amount represented 50% of NJAWC's total charitable contribution expense. The Board's determination that 50% of NJAWC's charitable contributions would be recognized in rates was consistent with a long-standing Board policy. The Supreme Court, however, found the inclusion of charitable contributions to be unsupported by the record in the case. In re New Jersey American Water, Co. 169 N.J. 181, 197 (2001).

**Background/Procedural History**

Following issuance of the Supreme Court's ruling, NJAWC, the Ratepayer Advocate (Advocate), and Board Staff engaged in extensive discussions as to how to comply with the Court's determination.<sup>1</sup> Various issues arose. These issues included: (1) whether NJAWC was obligated to return the charitable contribution component of rates it collected as of the date of the Board's Rate Order (April 6, 1999) or as of the date of the Supreme Court's invalidation of that Order (July 25, 2001); (2) whether NJAWC's obligation to its ratepayers should be fulfilled by bill credits or refund checks; (3) whether customers were entitled to interest on amounts due, and, (4) if interest was due, what interest rate should apply.

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<sup>1</sup> No other parties to this rate case participated in the appeal brought by the Advocate.

At a meeting with the Advocate, NJAWC, and Board Staff on September 24, 2001, the parties expressed an interest in pursuing settlement. It was agreed, however, that in the event settlement could not be reached, the parties would brief all issues by November 20, 2001, with reply briefs due on December 14, 2001.

A settlement was not reached and the parties filed initial briefs on November 20, 2001. Subsequently, at the request of the parties, the date for submittal of reply briefs was extended from December 14, 2001 to January 8, 2002, so as to allow for further settlement discussions. Settlement efforts were again unsuccessful and reply briefs were filed by the Advocate and NJAWC on January 8, 2002. However, prior to this matter being brought before the Board for disposition, NJAWC and the Advocate informed Board Staff that they had reached an agreement.

As set forth in the attached letter stipulation, NJAWC and the Advocate have agreed as follows:

1. The effective date when charitable donations are to be disallowed in NJAWC's rates is April 6, 1999, the date of the Board's Rate Order.
2. The level of charitable donation expense presently being recovered in rates on an annual basis is \$49,592;
3. It is not economically or practically feasible at the present time either to refund or credit customers the amount being recovered in rates subsequent to April 6, 1999, therefore,
4. NJAWC shall, in its next rate case, credit ratepayers the total amount of accrued charitable donations expense, plus simple interest calculated at the rates of interest set by the Board for customer deposits, as revised by the Board from time to time.
5. The refund or credit mechanism, including the length of any refund credit period, will be resolved in the context of the Company's next base rate case proceeding.

Having carefully reviewed the letter agreement submitted by NJAWC and the Advocate, as well as the July 25, 2001 decision of the Supreme Court of New Jersey, the Board HEREBY FINDS that the agreement reached by NJAWC and the Advocate is reasonable and in the public interest.

The Board adopts the attached letter agreement and incorporates it herein in its entirety, and HEREBY ORDERS:

1. The effective date when charitable donations are disallowed in NJAWC's rates is April 6, 1999;
2. The level of charitable donation expense presently being recovered in rates on an annual basis is \$49,592;
3. It is not economically or practically feasible at the present time either to refund or credit customers the amount being recovered in rates subsequent to April 6, 1999, therefore,
4. NJAWC shall, in its next rate case, credit ratepayers the total amount of accrued charitable donations expense, plus simple interest calculated at the rates of interest set by the Board for customer deposits, as revised by the Board from time to time;

5. The refund or credit mechanism, including the length of any refund credit period, will be resolved in the context of the Company's next base rate case proceeding.

DATED: **7/24/02**

BOARD OF PUBLIC UTILITIES  
BY:

**SIGNED**

JEANNE M. FOX  
PRESIDENT

**SIGNED**

FREDERICK F. BUTLER  
COMMISSIONER

**SIGNED**

CAROL J. MURPHY  
COMMISSIONER

**SIGNED**

CONNIE O. HUGHES  
COMMISSIONER

ATTEST:

**SIGNED**  
KRISTI IZZO  
BOARD SECRETARY